



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

Bruce Alan Finck  
Benton, Orr, Duval & Buckingham  
P.O. Box 1178  
Ventura, CA 93002

Re: Freedom of Information Act Request EPA-R9-2013-010471

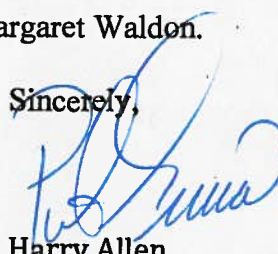
Dear Mr. Finck:

This is in response to your Freedom of Information Act request to obtain copies of materials concerning 4285 Crooked Palm Road and 4777 Crooked Palm Road. Based on your telephone conversations with Margaret Waldon, EPA has limited the scope of your request to records concerning storm water and drainage from the main drainage channel running from Crooked Palm Road through the facility.

Information responsive to your request is enclosed. This information consists of emails between EPA and the current site owner, Petrochem Development I, LLC, its contractors, and legal counsel; and emails between EPA and Ventura County.

If you have any questions, please contact Margaret Waldon.

Sincerely,

  
for Harry Allen  
Section Chief  
Superfund Division

Enclosures: 1/24/13 Email from Carrie Taylor to Margaret Waldon  
1/29/13 Email from Robert Wise to Anitha Balan  
2/4/13 Email from Anitha Balan to Robert Wise  
2/19/13 Email from Virgilio Sklar to Terry Avchen  
3/6/13 Email from Virgilio Sklar to Terry Avchen  
3/8/13 Email from Carrie Taylor to Margaret Waldon, Virgilio Sklar, and David Wadsworth  
5/23/13 Email from Virgilio Sklar to Terry Avchen  
10/17/13 Emails between Rachel Tennis and Terry Avchen

**Waldon, MARGARET**

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**From:** Carrie Taylor [carrie@destrierinc.com]  
**Sent:** Thursday, January 24, 2013 4:35 PM  
**To:** Waldon, MARGARET  
**Cc:** Terry Avchen; Nicole Peacock; Trey Driscoll; Kristopher Moller; Christian Driscoll; Chuck Miller  
**Subject:** USA Petrochem Ventura, CA

Maggie,

*We would like to speak to you about concerns we have related to certain site conditions at the USA Petrochem facility in Ventura, California.*

*As directed by the Administrative Order on Consent, the drainage outfalls were permanently plugged. This work was completed on January 22<sup>nd</sup>. Today, the site was subject to the first rain event since the plugging of these outfalls. The Best Management Practices (BMPs) are in place in accordance with the Cal-EPA State Water Resources Control Board approved Storm Water Pollution Prevention Plan (SWPPP) WDID# 4 56C365408.*

*Evidently, there is a significant volume of storm water being directed onto the site from Hwy 33 under Crooked Palm Rd. This run-on is largely responsible for flooding in the western portion of the site. Diverting this run-on would significantly reduce flooding of the work areas. We believe we can divert the run-on at the culvert west of Crooked Palm Rd (before it enters the facility) south, to the Manuel Canyon channel that runs along the southern boundary of the facility. This channel directs storm water from east of Hwy 33 to the Ventura River. However, an NPDES permit required for this action would typically take approximately a month to obtain. Is there a mechanism that EPA can use that can expedite this permit? Is there any way that EPA can help us get a waiver of the permit requirement? Is it an option for us to discharge to the channel and obtain the permit retroactively? Your input on this matter would be greatly appreciated.*

*Additionally, we are concerned because there are several work areas (the pipeline work, remedial excavation work, API separator work) in the western portion of the site that are flooded such that work cannot be continued, or will be delayed until conditions warrant. Further, another rain event is expected tomorrow (January 25<sup>th</sup>). We will have to evaluate the potential for additional impacts associated with this event, and advise you accordingly. In the meantime, anything that you could do to help us mitigate this permit issue would be greatly appreciated.*

*We look forward to hearing from you as soon as possible. If there is a time for a call that works for you, please advise.*

Carrie Taylor

**Wise, Robert**

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**From:** Wise, Robert  
**Sent:** Tuesday, January 29, 2013 4:45 PM  
**To:** anitha.balan@ventura.org  
**Cc:** Waldon, MARGARET; mitch@middagh.com  
**Subject:** Drainage from Crooked Palm Road onto the USA Petroleum facility

The Environmental Protection Agency is currently overseeing the hazardous substance and oil cleanup of the USA Petroleum refinery on Crooked Palm Road. Currently the drainage from the road is routed through the facility to an outfall to the river. At EPA's direction, all of the outfalls to the river have been permanently closed. As a result, each time it rains, the runoff from your system off property is flooding the refinery. The facility is implementing temporary measure to prevent the flooding, a more permanent fix is needed, specifically, the path of the drainage from the road onto the facility needs to be rerouted. EPA would like to speak to a representative from your agency on this issue. I can be reached @ 562-889-2572.

Thanks,



**Re: Drainage from Crooked Palm Road onto the USA Petroleum facility**

**Anitha Balan to: Robert Wise**

02/04/2013 09:14 AM

**Cc: Margaret Waldon, mitch, "Cat Robles", "JoeAnn Heredia", "Paul Esteban"**

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**History:** This message has been replied to.

Robert,

Can you provide me with copies of documentation of EPA's citation to the USA Petroleum? Also, no one from USA Petroleum has contacted us for a permit to install a solution to convey the water away from the road culvert across Crooked Palm Road.

Thanks

Anitha Balan, PE  
Engineering Manager-Permits Section  
Transportation Department  
County of Ventura  
800 S. Victoria Avenue  
Ventura, Ca-93009-1620  
Ph: 805-654-2071  
Fax-805-654-5169

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>>> <Wise.Robert@epamail.epa.gov> 01/29/2013 4:44 PM  
>>>

The Environmental Protection Agency is currently overseeing the hazardous substance and oil cleanup of the USA Petroleum refinery on Crooked Palm Road. Currently the drainage from the road is routed through the facility to an outfall to the river. At EPA's direction, all of the outfalls to the river have been permanently closed. As a result, each time it rains, the runoff from your system off property is flooding the refinery. The facility is implementing temporary measure to prevent the flooding, a more permanent fix is needed, specifically, the path of the drainage from the road onto the facility needs to be rerouted. EPA would like to speak to a representative from your agency on this issue. I can be reached @ 562-889-2572.

Thanks,

**Waldon, MARGARET**

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**From:** SKLAR, VIRGILIO  
**Sent:** Tuesday, February 19, 2013 3:00 PM  
**To:** Terry Avchen (tavchen@glaserweil.com)  
**Cc:** Waldon, MARGARET; carrie@destrierinc.com  
**Subject:** Approval to Open Drain (Feb 19, 2013)

Terry,

This email is to confirm that Maggie Waldon has again approved Respondents temporarily opening any drains on the site in order to prevent flooding from storm water in anticipation of the upcoming rain event (February 19, 2013 – February 25, 2013). Given this approval, the opening of such drains, in and of itself, does not constitute a violation of the terms of the AOC. That being said, Respondents remain responsible for conditions on their site, including but not limited to any petroleum or other pollutants or contaminants that may be contained in runoff from the site, regardless of the source of the runoff. In its sole discretion, EPA may consider on a case by case basis whether there are other factors that may be contributing to a release at or from the site.

To be clear, Respondents would still be liable if storm water picks up contaminants from the site and deposits these contaminants in the Ventura River, whether or not the runoff is caused by Ventura County or by natural conditions.

Virgilio

Virgilio Sklar  
Office of Regional Counsel  
U.S. EPA, Region 9  
75 Hawthorne, 16th Floor  
San Francisco, CA 94105  
Telephone: 415-972-3932

**Waldon, MARGARET**

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**From:** SKLAR, VIRGILIO  
**Sent:** Wednesday, March 06, 2013 2:45 PM  
**To:** Terry Avchen (tavchen@glaserweil.com)  
**Cc:** Waldon, MARGARET  
**Subject:** Storm Drain Opening Approval - March 2013

Terry,

This email is to confirm that Respondent US Petrochem has again been granted approval to temporarily open any drains on the site in order to prevent flooding from storm water in anticipation of the upcoming rain event (approval valid for period March 6, 2013 – March 11, 2013). Given this approval, the opening of such drains, in and of itself, does not constitute a violation of the terms of the AOC. That being said, Respondents remain responsible for conditions on the site, including but not limited to any petroleum or other pollutants or contaminants that may be contained in runoff from the site, regardless of the source of the runoff. In its sole discretion, EPA may consider on a case by case basis whether there are other factors that may be contributing to a release at or from the site.

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Virgilio

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San Francisco, CA 94105  
Telephone: 415-972-3932

**Waldon, MARGARET**

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**From:** Carrie Taylor [carrie@destrierinc.com]  
**Sent:** Friday, March 08, 2013 12:00 PM  
**To:** Waldon, MARGARET; SKLAR, VIRGILIO; david.wadsworth@ventura.org  
**Cc:** Terry Avchen; Christian Driscoll; Kristopher Moller; Andrew Baird  
**Subject:** Status - USA Petrochem

Maggie/David,

During the rain event we had overnight, the API basin effectively captured and maintained storm water run-on within the concrete basin of the separator. There is sheen on top of the water within the basin. This sheen is likely caused by contact with API infrastructure remaining within the basin (e.g., skimmer equipment). Per our protocols, our on site emergency cleanup team will collect this water via vacuum truck and pump into a Baker tank, and manage all disposal in accordance with profile results. All water was/is contained within the concrete basin, and there is no threat of release.

While we are not certain this is a reportable event, we are informing you of the condition. Also, in an abundance of caution we have reported the condition to OES (Incident Report No. 13-1426) and to the NRC (Incident No. 104-0443). If you have any questions or need more information please let me know.

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Carrie Taylor  
for Petrochem Development I, LLC  
714-600-4305  
[carrie@destrierinc.com](mailto:carrie@destrierinc.com)

**Waldon, MARGARET**

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**From:** Sklar, Virgilio  
**Sent:** Thursday, May 23, 2013 4:19 PM  
**To:** Terry Avchen (tavchen@glaserweil.com)  
**Cc:** Waldon, MARGARET; carrie@destrierinc.com; Rongone, Marie  
**Subject:** Answers to US Pet Questions and AOC

Terry,

Here are my responses to your and Carrie's questions:

- 1) Yes, you can go ahead and remove the "Superfund Site" signs from outside the site. Your site is not a Superfund Site.
- 2) As far as the AOC is concerned, it does not matter when the actual refinery tanks are removed, so long as there is no product within the tanks.
- 3) As far as the AOC is concerned, EPA does not have an opinion as to whether the cement slabs underneath the refinery process units remain in place. Leaving the cement slabs in place, so long as they are not contaminated with oil, would not violate the AOC. Whether Ventura County would want these removed is a separate question.
- 4) Once Carrie submits the final work plan and the work is completed, Maggie will be expecting final reports and UST reports for all work plans and for the site in general as set out in each of the individual work plans that have been approved. An overall "Completion Report" as set out in the Scope of Work accompanying the AOC will also be required. At that time, Maggie will likely come to the site to confirm that all work is complete.
- 5) It is EPA's usual practice simply to allow an AOC to lapse once all work has been completed. If US Petroleum would like the EPA to write a letter indicating that all work pursuant to the AOC has been completed, then you should submit to me such a request for me to give to my managers for the Agency to consider.
- 6) You had asked if you would be allowed to permanently open the storm drains once all the work pursuant to the AOC had been completed. I believe we had discussed this in the past with respect to a "light at the end of the tunnel" metaphor. As I had mentioned several months ago, the EPA's only interest in this cleanup is that oil not enter the Ventura River. As per the AOC, all outfalls and conveyances must be permanently closed off from the site to the River. Thus, it will not be possible to allow for the storm drains to be permanently opened. Drainage at the site is an issue that must be resolved between Ventura County and US Petroleum.

Have a great weekend and let me know if you have any other questions.

Vigi

Virgilio Sklar  
Office of Regional Counsel  
U.S. EPA, Region 9  
75 Hawthorne, 16th Floor  
San Francisco, CA 94105  
Telephone: 415-972-3932



## **Waldon, MARGARET**

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**From:** Terry Avchen [tavchen@glaserweil.com]  
**Sent:** Wednesday, October 09, 2013 10:56 AM  
**To:** Tennis, Rachel  
**Subject:** FW: Storm Drain Opening Approval - March 2013

Rachel,

This is what I wanted to talk about in our call, so I wanted to provide you a copy of an email that Virgilio sent to me earlier this year.

Thanks,

Terry

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**From:** SKLAR, VIRGILIO [mailto:Sklar.Virgilio@epa.gov]  
**Sent:** Wednesday, March 06, 2013 2:45 PM  
**To:** Terry Avchen  
**Cc:** Waldon, MARGARET  
**Subject:** Storm Drain Opening Approval - March 2013

Terry,

This email is to confirm that Respondent US Petrochem has again been granted approval to temporarily open any drains ~~on the site in order to prevent flooding from storm water in anticipation of the upcoming rain event (approval valid for period March 6, 2013 – March 11, 2013).~~ Given this approval, the opening of such drains, in and of itself, does not constitute a violation of the terms of the AOC. That being said, Respondents remain responsible for conditions on the site, including but not limited to any petroleum or other pollutants or contaminants that may be contained in runoff from the site, regardless of the source of the runoff. In its sole discretion, EPA may consider on a case by case basis whether there are other factors that may be contributing to a release at or from the site.

To be clear, Respondents would still be liable if storm water picks up contaminants from the site and deposits these contaminants in the Ventura River, whether or not the runoff is caused by Ventura County or by natural conditions.

Virgilio

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## **Waldon, MARGARET**

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**From:** Tennis, Rachel  
**Sent:** Thursday, October 17, 2013 10:53 AM  
**To:** Terry Avchen  
**Subject:** RE: Storm Drain Opening Approval - March 2013

Thanks, I'll look forward to speaking with you and Pat at 11:30.

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**From:** Terry Avchen [<mailto:tavchen@glaserweil.com>]  
**Sent:** Thursday, October 17, 2013 10:51 AM  
**To:** Tennis, Rachel  
**Subject:** RE: Storm Drain Opening Approval - March 2013

11:30 works. I will call you. I will also have a guy on the phone with me named Pat Breen, who is working on potential redevelopment of the site ( in the long haul), and I wanted to introduce the two of you just in case he was the one who called you in the middle of the rainy season.

Talk soon...

Terry

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**From:** Tennis, Rachel [<mailto:Tennis.Rachel@epa.gov>]  
**Sent:** Thursday, October 17, 2013 10:42 AM  
**To:** Terry Avchen  
**Subject:** RE: Storm Drain Opening Approval - March 2013

Terry,

Thank you for forwarding the email from Virgilio. Would 11:30 today work for you? If not, please suggest a time that would be more convenient.

Regards,  
Rachel

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**From:** Terry Avchen [<mailto:tavchen@glaserweil.com>]  
**Sent:** Thursday, October 17, 2013 10:35 AM  
**To:** Tennis, Rachel  
**Subject:** FW: Storm Drain Opening Approval - March 2013

Hi Rachel,

Welcome back.

Anyway, I am attaching the below email which Maggie approved last year during the rainy season. It was an emergency measure put in place just in case we needed to open the main storm drain to keep the property from flooding. We did not use it.

But, I want to make sure that if we need to do that during the rainy season this year, that we will be allowed under the same terms and conditions.

I can elaborate and give you an update when we talk. I will try to call you in a little while. Is there a good time that works for you?

Thanks,  
Terry

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**From:** SKLAR, VIRGILIO [<mailto:Sklar.Virgilio@epa.gov>]  
**Sent:** Wednesday, March 06, 2013 2:45 PM

**To:** Terry Avchen  
**Cc:** Waldon, MARGARET  
**Subject:** Storm Drain Opening Approval - March 2013

Terry,

This email is to confirm that Respondent US Petrochem has again been granted approval to temporarily open any drains on the site in order to prevent flooding from storm water in anticipation of the upcoming rain event (approval valid for period March 6, 2013 – March 11, 2013). Given this approval, the opening of such drains, in and of itself, does not constitute a violation of the terms of the AOC. That being said, Respondents remain responsible for conditions on the site, including but not limited to any petroleum or other pollutants or contaminants that may be contained in runoff from the site, regardless of the source of the runoff. In its sole discretion, EPA may consider on a case by case basis whether there are other factors that may be contributing to a release at or from the site.

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